


COUNTY OF YORK

MEMORANDUM

DATE: November 19, 1999 (BOS Mtg. 12/1/99)

TO: York County Board of Supervisors

FROM: Daniel M. Stuck, County Administrator 

SUBJECT: Newport News – York County Water Agreement

In 1996 the Board of Supervisors approved a water service agreement with the City of Newport News to essentially provide potable water service to the northern part of the County not served by independent water purveyors. This contract was dependent on the Army Corps of Engineers issuing a permit for the King William Reservoir by January 1, 2000. The agreement was amended in 1998 to extend the Corps' permitting deadline to January 1, 2005 due to the Corps staff opposition to the Reservoir.

In June 1999 the latest District Engineer, Colonel Carroll gave the Regional Raw Water Study Group (RWSG) a letter indicating that he felt that the permit should be denied. After discussions with Representative Herb Bateman, Colonel Carroll agreed to consider recaps of previously submitted information addressing various issues. The RWSG presented very persuasive documents, which the Corps is considering. Governor Gilmore has taken action which will preclude the District Engineer from denying the permit; however, he could approve it. If the District Engineer does not approve the permit, it will be elevated to the Regional Engineer (General Officer level) for further consideration.

After the June letter from the District Engineer, the Utility Directors of the communities that form the RWSG met and decided to look at short-term alternatives that may be available through jurisdictional interconnections; i.e., the potential to balance water supply needs and demands by "wheeling" water even to the extent of the producing jurisdiction moving water through a second jurisdiction to a third jurisdiction experiencing a localized water supply issue. While such an approach does not resolve the long-term water supply problem, it would meeting the region's water needs until a new major water source, either the reservoir or other less attractive projects, is put in place. In addition, the City of Newport News brought a Brackish Ground Water Desalinization Plant on line. This plant was included in the RWSG's plan and was needed to both augment supply and to account for the long lead time before water is available from a reservoir.

As the City of Newport News is committed to a regional answer to developing an adequate potable water supply on the Peninsula, County staff feels that the City would consider the removal of the King William Reservoir provision and replacing it with what staff has referred to in the conceptual agreement as the Raw Water Resource Plan (RWRP) as this study has not formally been named. Staff views on this are based on the fact that if the Reservoir is finally turned down, less preferred projects can be built.

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In effect, the approval of this resolution would enable the County Administrator to formally approach the City of Newport News. The approach outlined in the attached conceptual contract and Implementation Plan would ensure the needed water supply in the northern County.

I recommend approval of R99-216.

Dunn/3755:mw

**WATER AGREEMENT
(Conceptual)**

THIS AGREEMENT, made this _____ day of _____, 19____, by and between the COUNTY OF YORK, a political subdivision of the Commonwealth of Virginia (hereinafter County) and the CITY OF NEWPORT NEWS, a municipal corporation of the Commonwealth of Virginia (hereinafter City).

It is mutually agreed as follows:

I. Water Service by City.

A. Service contingent upon approval:

The City is presently providing retail water service to those areas of the County generally south of Hubbards Lane, which is hereinafter defined for the purpose of this Agreement as the "York Service Area." The City is committed to the extension of water service to areas of the County not in the York Service Area (hereinafter the "Additional York Service Area") contingent upon development of a Raw Water Resource Plan (RWRP) acceptable to both the City and the County not later than December 31, 2001.

B. Commitment to provide service:

1. Except as hereinafter provided, City agrees to make retail water service available to the Additional York Service Area as soon as practical after reaching agreement on an RWRP and the City's verification that existing County facilities to be transferred to the

City are of acceptable operational and maintenance conditions. "Retail Service" is defined as the direct metered sale of water to a customer for use on the premises. Availability of Retail Service connections will be subject to the rates, fees, charges, and policies in effect at the time the request for service is made. Such rates, fees, charges and policies for Retail Service shall be the same as those applicable throughout the entire Newport News Waterworks Service Area.

For the purposes of this Agreement, availability is defined as water service being attainable in the Additional York Service Area on a direct retail basis by the City assuming ownership of County facilities or through the extension of water distribution and transmission mains by private real estate developers or by County.

2. The attached Water Service Implementation Plan (Attachment A) outlines the scope and timing of the retail service and the financial responsibilities of both the City and County.
3. The City shall continue to provide water service to those parts of the York Service Area in the County that are being served at the time of the execution of this Agreement, on the same terms as provided in Paragraph B.1. This obligation shall survive the termination or expiration of this Agreement.

C. Standards for water service facilities:

After the effective date of this Agreement, all water pipelines, service connections, fire hydrants and water meters installed by County or by

private real estate developers within the County shall be planned, designed, constructed and maintained to City's standards in effect at the time unless an alternative is approved in advance by the Director of Public Utilities for the City of Newport News.

D. Dedication of Water Pipelines, Service Connections, Fire Hydrants, Valves and Water Meters to City:

The City agrees to accept into its water system water pipelines, service connections, fire hydrants, valves and water meters which are designed, constructed and maintained within the County to City's standards, or as alternatively approved by the Director of Public Utilities for the City of Newport News, at the request of County or private real estate developers within ninety (90) days of such request, or show just reason why such facilities cannot be accepted by City. Dedication to the City of water facilities installed by County or by private real estate developers shall be accompanied by records of construction and maintenance and appropriate easements when such water facilities are located outside of the public right-of-way.

E. Nondiscrimination:

City agrees not to adopt retail water commodity rates, fees and charges, including charges for the cost of developing new water sources, different for York County than it charges for other retail water customers within the entire waterworks Service Area, including those in the City of Newport News. Extension and connection policies applicable in County shall be identical to those in effect for the rest of the Service Area unless otherwise agreed to by City and County.

II. Water Service by Others in County.

A. Service by City of Williamsburg:

Those areas of County served by the agreement with the City of Williamsburg dated January 14, 1999, in the vicinity of By-Pass Road shall continue to be served by the City of Williamsburg.

Those areas of County served with master-metered water service from the City of Williamsburg system on Hubbards Lane, Queens Lake, Queenswood, Royal Grant and other similarly situated subdivisions shall become part of the Service Area if requested by the County. Initially, City will continue the master-metered service, but eventually service shall be converted to direct Retail Service to these customers upon improvement of the distribution pipelines and service connections to City of Newport News standards. The expense of improving these existing water distribution systems to Newport News standards in order to provide direct Retail Service to those existing customers shall not be the responsibility of the City, unless otherwise agreed to by City.

B. Retail water service by others:

Those areas of County served on a direct retail basis by the City of Williamsburg or the James City Service Authority shall continue to be served by them unless the County determines it to be necessary to change service delivery from either of them to City. In which event, upon the request of the County, City agrees to assume the obligation to provide water service to those customers. The expense of extending City's retail

water service to those areas shall not be the responsibility of City, unless otherwise agreed to by City.

III. System Development Charge.

A. SDC Required:

All new connections to the City's waterworks system are subject to a System Development Charge (SDC). The SDC is a fee established by City to recover the marginal cost of providing drinking water to a new water customer, including source development, treatment, storage and transmission. For direct connections of new customers to the City's system, the customer shall pay the SCD before water service is made available. It is recognized that certain subdivisions in County are now served by other water providers that do not obtain their water from City. Conversion of those subdivisions to City as their water provider shall trigger the requirement for the payment of the SDC and in those cases, County shall be responsible for ensuring payment of the applicable SDC.

B. Exceptions to SDC:

In the case of those subdivisions served by County or others, who now obtain their water from the City via a master meter, including the subdivisions of Charleston Heights, Nelson Park, York Terrace and Carver Gardens, no SDC shall be due.

IV. Development and Use of Groundwater Supplies.

A. Existing County wells:

At such time after the approval of an acceptable RWRP as the City assumes water service to areas served by County-owned groundwater well systems, the ownership of the wells, associated facilities, withdrawal rights and permits shall be transferred without charge from County to City for the purpose of supplementing the City's water supply. Transfer of such property shall be approved by the County's Board pursuant to Section 15.2-1800, Code of Virginia, 1950, as amended.

B. Future wells:

In order to enable the City to continue to meet future water supply needs of the entire Waterworks Service Area, County will not unreasonably withhold its consent for the development by City of additional groundwater wells within the County, provided that adequate provisions are made in accordance with State regulations for withdrawal of groundwater to protect any existing wells used by County residents.

V. Support of the King William Reservoir Project.

County agrees to continue to lend full support for the permitting and construction of the regional King William Reservoir Project, the preferred project for meeting the future water needs for the lower Peninsula over the next forty years. County agrees to remain a member of the Regional Raw Water Study Group and agrees to lend full support to the reservoir project until such time as regulatory or legal actions make this alternative a reasonable alternative.

VI. Term.

The term of this Agreement shall be for fifty years and shall supersede the Agreement of January 3, 1996 as amended as of May 20, 1998.

VII. Renewal.

Unless otherwise agreed upon, this Agreement shall be automatically renewed for additional terms of twenty-five (25) years each. If either party desires to amend this Agreement, written notice must be given to the other party at least one year in advance. Any such amendment must be agreed to, in writing, by both parties.

WITNESS the following signatures and seals.

COUNTY OF YORK

By: _____
Daniel M. Stuck, County Administrator

APPROVED AS TO FORM:

By: _____
James E. Barnett, Jr., County Attorney

CITY OF NEWPORT NEWS

By: _____
City Manager

ATTEST:

By: _____
City Clerk

APPROVED AS TO FORM:

PREPARED BY:

By: _____
City Attorney

Assistant City Attorney

ATTACHMENT "A"

**CITY OF NEWPORT NEWS AND YORK COUNTY
WATER SERVICE IMPLEMENTATION PLAN**

1. The City will commence water service to the Additional York Service Area (AYSA), including the transfer of specific County facilities, as soon as practical after:
 - a) The City has developed an overall plan, agreeable to City and County, to provide for the increased raw water supply demand required to support the AYSA regardless of the outcome of the permitting issue on the King William Reservoir, and
 - b) The existing facilities that will be transferred to the City are determined by NNWW to be of acceptable design and are in good operational and maintenance condition. All future facilities installed by the County and transferred to the City shall conform to NNWW Distribution Standards in effect at the time of the facilities design.
 2. NNWW System Development Charges (SDC) will be assessed for all service connections that do not presently receive water from The City either as a direct customer or through master meter agreements, except as otherwise provided in the water agreement.
 3. The County retains the right to collect any water connection fee(s) as may be assessed by the County at the time any extension agreement is reached with a developer who proposes to install water facilities in a new development or from owners/builders who propose to connect to County financed water distribution extensions.
 4. The County will continue its program of water service extensions as outlined in its Utilities Strategic Plan as it may be amended from time to time.
 5. As service needs dictate, additional transmission mains will be installed under the following financial guidelines:
 - a) The City will be responsible for the physical design of all transmission mains that extend service to existing improved properties.
 - b) Developers will be responsible for the design and construction costs required to provide water extensions with adequate fire flow to new
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ATTACHMENT "A"

projects. Such extensions must meet the NNWW standards that exist at that time.

- c) Developers are required to oversize facilities at the direction of either the County or the City.
 - d) The incremental cost of over sizing distribution and/or transmission mains at the direction of the County, per Item 4.c) above, will result in the reduction of the developers' connection fees due the County.
 - e) The incremental cost of over sizing distribution and/or transmission mains at the direction of NNWW per item 4.c) above will be the responsibility of the City.
 - f) The County will be responsible for the construction of transmission mains but may, on a case by case basis, elect to have NNWW construct said mains.
 - g) The City will maintain a hydraulic model of their water distribution system in the County and will provide transmission main sizing data as needed.
 - h) The City will insure that any additional facilities such as, booster stations, storage tanks and other system appurtenances are adequately sized in accordance with the latest policies and standards of NNWW.
6. The attached "Exhibit 1" outlines the transmission main extensions and facilities that are presently anticipated to be needed in the future. This exhibit is for informational purposes only and may be altered from time to time with the mutual agreement of the City and the County.

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NNWW - YORK COUNTY
WATER SERVICE IMPLEMENTATION
MASTER PLAN

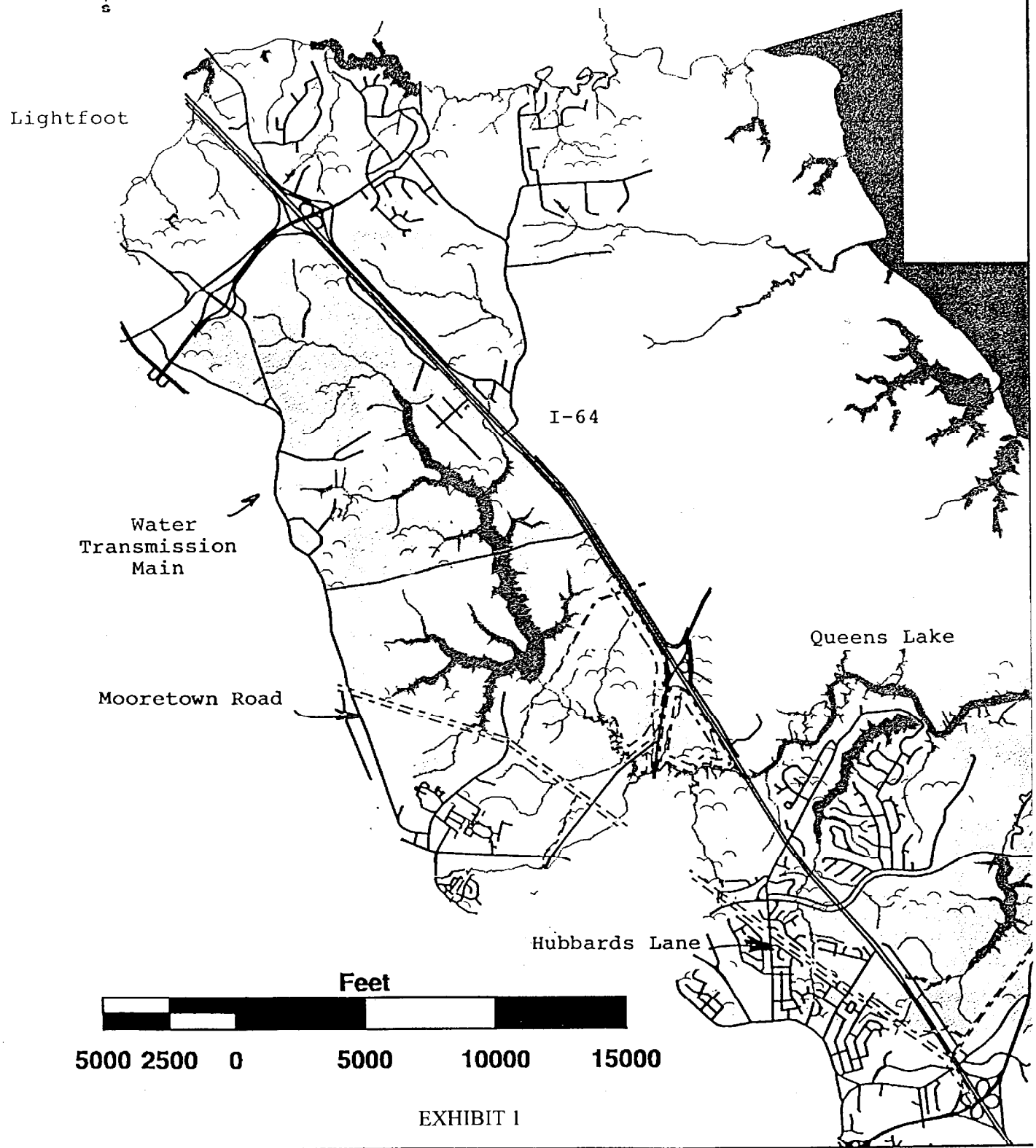
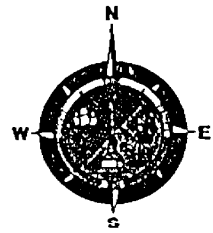


EXHIBIT 1

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R99-216

BOARD OF SUPERVISORS
COUNTY OF YORK
YORKTOWN, VIRGINIA

Resolution

At a regular meeting of the York County Board of Supervisors held in the Board Room, York County Finance Building, Yorktown, Virginia, on the ____ day of ____, 1999:

Present

Vote

Sheila S. Noll, Chairman
James W. Funk, Vice Chairman
Walter C. Zaremba
Albert R. Meadows
Jere M. Mills

On motion of _____, which carried ____, the following resolution was adopted:

A RESOLUTION TO AUTHORIZE THE COUNTY ADMINISTRATOR TO NEGOTIATE AND EXECUTE A NEW WATER AGREEMENT WITH THE CITY OF NEWPORT NEWS AND TO APPROVE A WATER SUPPLY IMPLEMENTATION PLAN

WHEREAS, the County of York and the City of Newport News executed a Water Agreement on January 3, 1996 which was amended on May 20, 1998; and

WHEREAS, the revised Agreement provided that said Agreement would be null and void if the Section 404 Permit for the proposed King William Reservoir from the Corps of Engineers (COE) was not obtained by January 1, 2005; and

WHEREAS, in light of anticipated continued permitting and legal delays probable with the Reservoir, the Raw Water Study Group has undertaken a study to maximize water supply efficiency on the Peninsula which will be completed in the spring of the year 2000, hereafter called the Raw Water Resources Plan (RWRP); and

WHEREAS, the County of York would like to strengthen and renew its commitment to a regional water supply for all of York County;

NOW, THEREFORE, BE IT RESOLVED by the York County Board of Supervisors this the ____ day of _____, 19 ____, that the Board formally requests the City Council of Newport News to modify the Agreement of January 3, 1996, as amended on May 20, 1998, to remove the contingency regarding the King William Res-

ervoir, replacing it with a provision that addresses the development of a raw water supply plan acceptable to both parties.

BE IT FURTHER RESOLVED that the County Administrator is directed to formally request the City of Newport News to consider the proposed contract changes and to negotiate and execute a contract in substantially the form submitted to this Board with the report of the County Administrator dated November 19, 1999, and approved as to form by the County Attorney.

BE IT STILL FURTHER RESOLVED that the York County Board of Supervisors approves the attached Implementation Plan subject to further review by the Board if the City of Newport News requests modification.
